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MEDIA RELEASE
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**PATRIOT ACT FORFEITURE OF \$3.8 MILLION FOR
RESTITUTION TO VICTIMS OF CANADIAN TELEMARKETING SCHEME**

CONCORD, NEW HAMPSHIRE - United States Attorney Tom Colantuono announced today that, on November 29, 2005, U.S. District Court Judge Paul Barbadoro entered judgment on final orders of forfeiture for approximately \$3.8 million in one of the first cases brought in the United States under a provision of the PATRIOT ACT. This section of the law, which Congress enacted in response to the attacks of September 11, 2001, allows the United States, in certain circumstances, to seize funds located in United States-based bank accounts belonging to foreign banks. In October, 2002, the United States seized approximately \$4.3 million in funds from the U.S. accounts of six Israeli banks and a Jordanian bank. In November, 2003, another \$471,000 was seized from the U.S. account of the Jordanian bank.

The case arose out of a "Project Colt" investigation of a Montreal-based telemarketing operation which preyed on elderly Americans. "Project Colt" is a cooperative law enforcement effort involving the Federal Bureau of Investigation, the Royal Canadian Mounted Police, the Surete du Quebec, the U.S. Postal Service, and U.S. Immigration and Customs Enforcement. The investigation resulted in a New Hampshire RICO prosecution, handled by Criminal Chief Don Feith, of 14 Canadians for telemarketing fraud. Seven of those defendants have been convicted, and have received sentences ranging from 30 months to 10 years of incarceration. Two defendants are fugitives, and five have yet to be extradited from Canada. The defendants targeted over 90 elderly, vulnerable American victims by telling them they had won a Canadian lottery, but needed to send cashier's checks, made out to fictitious payees, to Canada to prepay Canadian taxes on their winnings. The conspiracy collected more than \$7 million in fraud proceeds during its operation. Once the cashier's checks were received by the criminals, they were resold and laundered through the Middle East, primarily through Israeli moneychangers and Israeli banks, as well as the Ramallah, Palestine, branch of the Union Bank for Savings and Investment of Jordan.

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The Jordanian bank filed a claim disputing the forfeiture on the grounds that, although it

still had over \$2.156 million in the account of its customer who originally deposited the victims' cashier's checks, Palestinian and Jordanian law prohibited it from keeping those funds to offset the seizure by the United States. After extensive litigation, Judge Barbadoro ruled, on summary judgment, that the bank lacked standing to dispute the \$2.156 million that was still in its customer's account on the dates of the seizures. In essence, the Court held that the PATRIOT ACT requires a foreign bank to seek to recoup the funds still in the customer's account, when that customer's deposits are subject to forfeiture by the United States. The PATRIOT ACT permits the foreign customer, not the foreign bank, to file a claim and litigate the forfeiture in U.S. courts. In this case, the Jordanian bank's customer, an East Jerusalem moneychanger, never filed a claim. In 2004, that customer was convicted in Israel on criminal tax charges arising from the operation of the moneychanging business in the 1990s, and was sentenced to incarceration.

The bank also attacked the PATRIOT ACT provision as violating the Due Process Clause of the U.S. Constitution. The Judge ruled that the bank could not assert the constitutional violation so late in the case, but also held that any attempt to allow a late assertion would be futile because the United States would still prevail on the asserted constitutional violation. He also rejected the bank's claim that the forfeiture violated the Excessive Fines clause of the Eighth Amendment.

It is the intention of the United States Attorney's Office to restore all forfeited funds to the victims of the fraud scheme as restitution. As of this date, more than \$1 million of forfeited funds has been distributed to the victims. Commenting on the successful forfeiture, United States Attorney Tom Colantuono stated: "It is not often, in international fraud cases such as this, that the prosecutor's office is able to collect any funds to make restitution to the victims of such a heinous crime. Without the PATRIOT ACT, very little restitution would have been obtained in this case. The criminal defendants had few assets left when they were arrested in Canada. This statute allows the United States to reach the assets in the United States of foreign banks which permit their customers to launder the proceeds of terrorism and other crimes, such as the fraud that occurred here. Those money launderers can no longer shield themselves behind their accounts in foreign banks, but must come to the United States to litigate their claims."

Civil Chief Gretchen Witt and Asset Forfeiture Supervisor Jean Weld handled the case for the United States.

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